

CITY OF TORONTO

BY-LAW No. 894-2007(OMB)

To amend the General Zoning By-law No. 438-86 of the former City of Toronto, as amended with respect to lands municipally known as 351 Wallace Avenue.

WHEREAS the Ontario Municipal Board, by way of Order No. 2478 issued on September 1, 2006 and Decision/Order No. 0268 issued on January 31, 2007, following an appeal pursuant to Section 34(11) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, and with the consent of the City of Toronto pursuant to Notice of Motion J(59) as adopted by City Council at its meeting of July 25, 26 and 27, 2006, adopting terms of settlement respecting 351 Wallace Avenue, determined to amend By-law No. 438-86, as amended, of the City of Toronto with respect to lands municipally known in the year 2005 as 351 Wallace Avenue; and

WHEREAS authority is given to the Ontario Municipal Board under Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended; and

WHEREAS pursuant to Section 37 of the *Planning Act*, a By-law passed under Section 34 of the *Planning Act* may authorize increases in the height or density of development beyond that otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

WHEREAS subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

WHEREAS the owner of the lands known at the date of enactment of this By-law as 351 Wallace Avenue (the "Lands") has elected to provide the facilities, services or matters as are set out in this By-law; and

WHEREAS the increase in height and density of development permitted under this By-law beyond that otherwise permitted on the Lands by By-law No. 438-86, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the owner of the Lands and the City of Toronto;

THEREFORE the Ontario Municipal Board orders as follows:

1. None of the provisions of Section 2 with respect to the definition of "*height*", "*grade*", "*lot*", Sections 4(2)(a), 4(4)(b), 4(6), 4(11)(a), 4(11)(b), 4(11)(c), 4(12), and Section 9 of Zoning By-law No. 438-86, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of an other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, shall apply to prevent the erection and use of one or more *apartment buildings* together with uses *accessory* thereto including a *parking station* and a *below ground parking garage*, on the *lot* shown on Map1 attached to and forming part of this By-law, provided:

- (1) the *lot* comprises not less than the lands outlined by heavy lines on Map 1, attached to and forming part of this By-law;
- (2) no above *grade* portion of any building or structure is located otherwise than wholly within the areas delineated by heavy lines as shown on Map 2, attached to and forming part of this By-law;
- (3) the maximum *residential gross floor area* of all buildings and structures erected or used on the *lot* does not exceed 14 216 square metres;
- (4) no portion of any building or structure, including those elements referred to in Section 4(2) (a) (i) and (ii) of Zoning By-law No. 438-86, as amended, shall exceed the *heights* measured in metres from *grade* shown on Map 2;
- (5) for the portion of the building facing Wallace Avenue no platform or porch at the entrance to the building or to any *dwelling unit* shall be located below *grade* or higher than 1.2 metres above *grade*;
- (6) despite Sections 1(2) and 1(4) of this By-law, the following projections are permitted on the *lot*,
 - (i) with the exception of any portion of the building facing Wallace Avenue, an open balcony that projects no more than 1.5 metres beyond the heavy lines shown on Map 2;
 - (ii) stairways providing access to a below ground *parking garage* and safety railings;
 - (iii) with the exception of any portion of the *lot* facing Wallace Avenue, decorative raised brick pilasters projecting 0.25 metres or less;
 - (iv) eaves and cornices not exceeding a horizontal projection of 0.45 metres beyond the heavy lines shown on Map 2; and
 - (v) canopies not exceeding a horizontal projection of 0.5 metres beyond the heavy lines shown on Map 2, provided each such canopy has a maximum width of 3.5 metres and is located above the entry door of a *dwelling unit*;
- (7) despite Section 4(6) of By-law No. 438-86, as amended, one *loading space - type G* is provided and maintained on the *lot*;
- (8) outdoor *residential amenity space* shall be provided and maintained on the *lot*, and shall include an area comprising not less than 484 square metres and having dimensions not less than 22 metres by 22 metres as shown on Map 2;

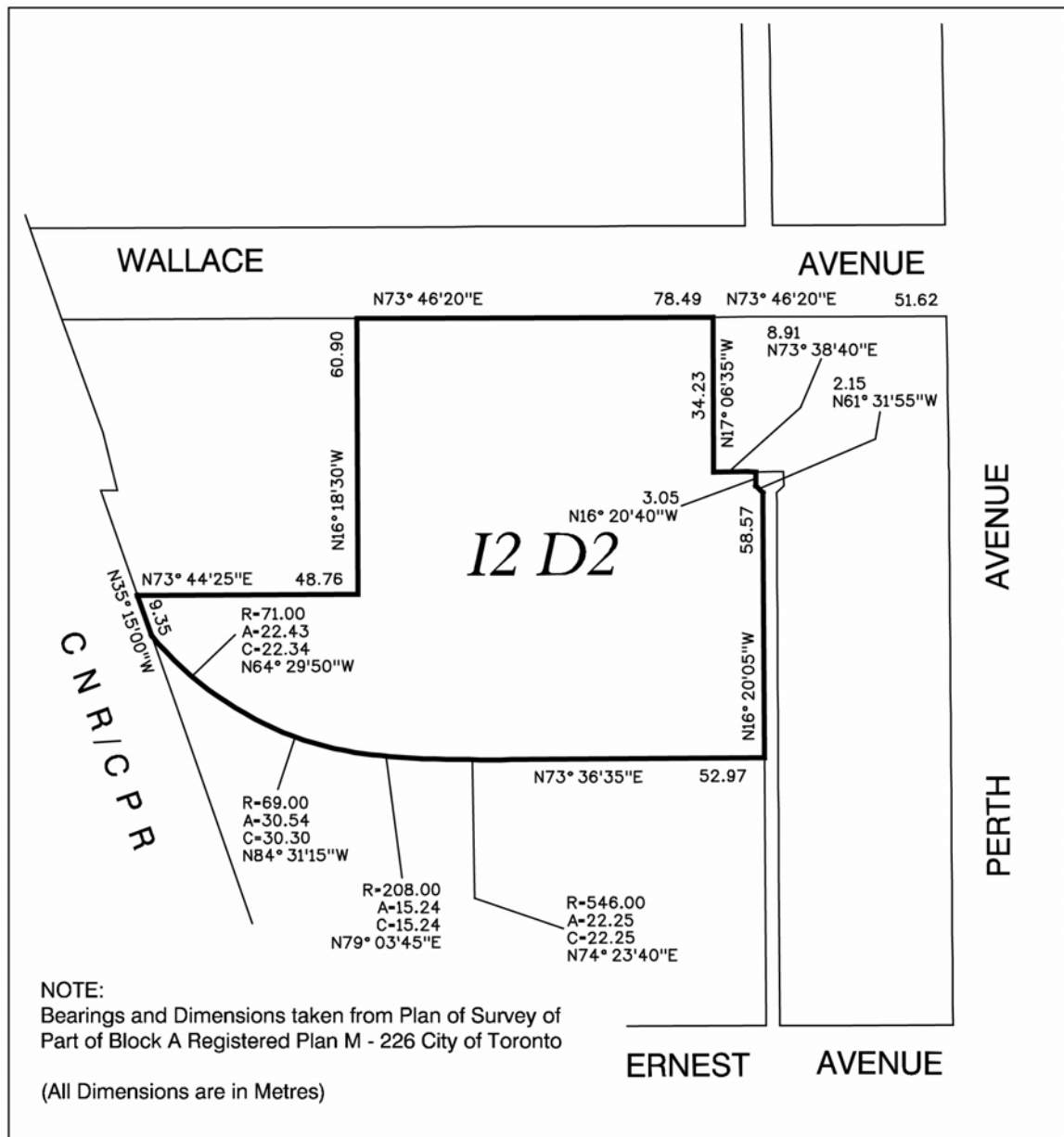
- (9) the portion of the *lot* between the Wallace Avenue *lot* line and the line of the main *front wall* of the residential building facing Wallace Avenue, as projected to the side lot lines, is located at *grade*, and not less than 50% of such area, excluding any portion of the driveway referred to in clause 12(a) herein, is provided and maintained as *soft landscaping*;
- (10) despite Section 4(13) of By-law No. 438-86, as amended, at least
 - (a) one *bicycle parking space – occupant* for each *dwelling unit*; and
 - (b) 27 *bicycle parking spaces – visitor*,shall be provided and maintained on the *lot*;
- (11) despite Section 4(4)(b) of By-law No. 438-86, as amended, the following minimum number of *parking spaces* shall be provided and maintained on the *lot*,
 - (a) 1.0 *parking spaces* for each one or two bedroom *dwelling unit*, for residents;
 - (b) 1.2 *parking spaces* for each three bedroom *dwelling unit*, for residents, and
 - (c) 0.12 *parking spaces* for each *dwelling unit*, for visitors;
- (12) the owner of the *lot* at its expense and in accordance with and subject to the agreement referred to in paragraph (13) herein,
 - (a) constructs prior to the first occupancy of any *dwelling unit* on the *lot*, and thereafter maintains, the access and ingress driveway on the *lot* as shown on Map 2 to City public road standards and with a minimum width of 15.9 metres, with the exception of stairs from the underground garage, such driveway to function and provide access to the public as if it were a public road;
 - (b) enters into and registers to the City’s satisfaction, prior to the issuance of any building permit, an easement with the City securing the public access required in clause (a) and, in the future should the City require, conveys the driveway to the City at nominal cost, and in a satisfactory condition, free and clear of encumbrances;
 - (c) prior to the issuance of the first above ground building permit, provides a letter of credit satisfactory to the City to secure the completion of the driveway required in clause (a);
 - (d) provides and has approved by the City, satisfactory plans and specifications for the driveway required in clause (a), prior to the issuance of site plan approval pursuant to Section 41 of the *Planning Act*;

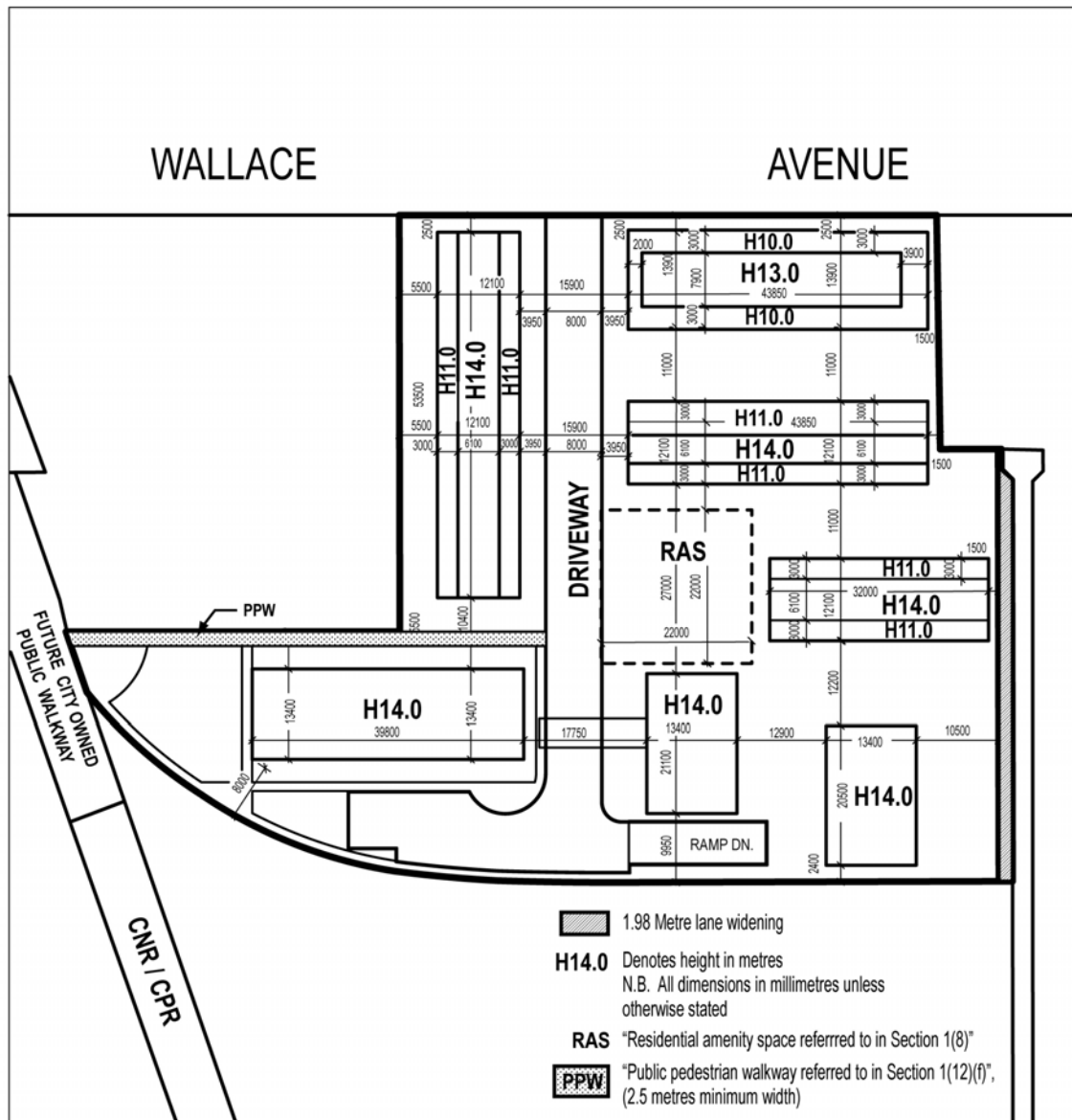
- (e) prior to the issuance of the first building permit, conveys to the City at nominal cost and in satisfactory condition, free and clear of encumbrances, a lane widening of 1.98 m along the east property line of the *lot*;
 - (f) prior to the first occupancy of any *dwelling unit* on the *lot*, provides and thereafter maintains, a *public pedestrian walkway* over the *lot* as shown on Map 2, the specific location, configuration and design to be determined at the time of site plan approval pursuant to Section 41 of the *Planning Act* to the satisfaction of the City, such walkway to function and provide access to the public as if it were a public walkway, provided a connection between the *lot* and the public bicycle pathway adjacent to the rail corridor is permitted by Canadian National Railway Company;
 - (g) subject to clause (f), enters into and registers to the City's satisfaction, prior to the issuance of the first above ground building permit, an easement with the City securing the public access required in such clause;
 - (h) undertakes and implements satisfactory noise and vibration studies, and incorporates appropriate noise, vibration and railway safety measures, including a berm and/or crash wall, if required, in the site plan application pursuant to Section 41 of the *Planning Act* to the City's satisfaction; and
 - (i) secures such other collateral matters through such agreement to the City's satisfaction prior to site plan approval pursuant to Section 41 of the *Planning Act*; and
- (13) the owner of the *lot* enters into an agreement with the City pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters required in paragraph (12) herein and those matters deemed appropriate for the orderly development of the *lot*, and registers such agreement against title to the *lot* as a first charge, all to the satisfaction of the City Solicitor prior to this Zoning By-law coming into full force and effect.
2. Despite any existing or future severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.
3. Except as otherwise provided herein, the provisions of By-law No. 438-86 shall continue to apply to the *lot*.
4. For the purpose of the By-law, the following terms shall have the following meaning,
- (1) "City" means the City of Toronto;
 - (2) "grade" means the level that is 114.65 metres Canadian Geodetic Datum;

- (3) “*height*” means, the vertical distance between *grade* and the top of the roof of the uppermost storey, including those elements referred to in Section 4(2) (a) (i) and (ii) of Zoning By-law No. 438-86, as amended;
- (4) “*lot*” means those lands outlined by heavy lines on Map 1 attached hereto;
- (5) “*public pedestrian walkway*” means a pedestrian walkway that:
 - (a) is a *publicly accessible open space*;
 - (b) is designed and intended for and is used by the public; and
 - (c) provides direct access between Wallace Avenue, the *lot* and any future pathway adjacent to the Canadian National Railway corridor; and
- (6) “*publicly accessible open space*” means an open space which is,
 - (a) open and accessible to the public at all times and such access may be refused, or a person required to leave the open space, only in the case of any person who:
 - (i) unreasonably interferes with the ability of other members of the public or lawful occupants to use the open space;
 - (ii) carries on an unlawful activity;
 - (iii) acts in a manner unreasonably inconsistent with the intended use of the open space;
 - (iv) injures or attempts to injure any person, property or property rights;
 - (v) obstructs or injures any lawful business or occupation carried on by the building owner or person in lawful possession of the open space; or
 - (vi) commits any criminal or quasi-criminal offence;
 - (b) illuminated for safety and visibility to the City’s satisfaction; and
 - (c) maintained clear of snow, ice and obstructions at all times; and

- (7) each other word or expression, which is italicized in this by-law, shall have the same meaning as each such word or expression as defined in the said By-law No. 438-86, as amended.

PURSUANT TO ORDER/ORDER NO. 2478 ISSUED ON SEPTEMBER 1, 2006 AND ORDER/DECISION NO. 0268 ISSUED ON JANUARY 31, 2007, OF THE ONTARIO MUNICIPAL BOARD IN BOARD FILE NO. PL060190.





 **Toronto** City Planning
Division
Map 2

351 Wallace Avenue

File # 04 189634



Not to Scale
12/08/06